

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Ronald Christopher Sanders,

PETITIONER

v.

United States of America,

RESPONDENT

Crim. No. 4:08-cr-00621-TLW

C/A No. 4:14-cv-01880-TLW

**Order**

Petitioner pled guilty to Felon in Possession of a Firearm and Ammunition and was sentenced to 180 months incarceration on January 22, 2009. He was sentenced as an armed career offender under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e).<sup>1</sup> His ACCA predicate offenses consisted of Assault and Battery of a High and Aggravated Nature (“ABHAN”) and two separate convictions for Distribution of Powder Cocaine. He has filed a petition under 28 U.S.C. § 2241,<sup>2</sup> in which he argues that his ABHAN conviction no longer qualifies as a predicate offense under the Fourth Circuit’s recent decision in *United States v. Hemingway*, 734 F.3d 323 (4th Cir. 2013), which held that ABHAN is not a violent felony for federal sentencing purposes under the ACCA.

It is, at best, uncertain whether district courts have subject matter jurisdiction under § 2241 to consider an attack on a statutory mandatory minimum sentence based on prior convictions that no longer qualify as predicates for the enhanced sentence. The Court is aware of

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<sup>1</sup> The ACCA imposes a mandatory minimum fifteen-year sentence on felons who possess, among other things, firearms, and who also have three or more prior convictions for committing certain drug crimes or “violent felon[ies].” 18 U.S.C. § 924(e)(1).

<sup>2</sup> Petitioner had previously filed a petition under 28 U.S.C. § 2255, which was denied. ECF Nos. 60, 69.

at least one similar case where a district judge in the Fourth Circuit has concluded that district courts do not have such jurisdiction. *See Surratt v. United States*, No. 3:12-cv-513, 2014 WL 2013328, at \*4–7 (W.D.N.C. May 16, 2014), *appeal docketed*, No. 14-6851 (4th Cir. June 4, 2014). As *Surratt* squarely addresses the issue and is currently on appeal, the Court concludes that the instant case will be held in abeyance pending the Fourth Circuit’s decision in *Surratt*.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
Chief United States District Judge

January 12, 2015  
Columbia, South Carolina